

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION SERIES—CODE No. 19

CODE OF FAIR COMPETITION
FOR
THE MALT INDUSTRY

Approved December 28, 1934

Effective January 7, 1935

1. Order Approving Code
2. Letter of Transmittal (Secretary of Agriculture)
3. Letter of Transmittal (National Industrial Recovery Board)
4. Code



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1935

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE MALT INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act approved June 16, 1933, for approval of a Code of Fair Competition for the Malt Industry, and due notice and opportunity for hearing to interested parties having been given, and hearings having been held thereon; and the annexed reports on said Code, containing findings with respect thereto, having been made and directed to the President:

Now, therefore, on behalf of the President of the United States, R. G. TUGWELL, Acting Secretary of Agriculture, and the National Industrial Recovery Board, pursuant to authority vested in them by Executive Orders of the President, including Executive Order No. 6764, dated June 29, 1934, and otherwise, do hereby incorporate by reference said annexed reports and do find that said Code complies in all respects with the provisions and will tend to effectuate the policy and purposes of said Title of said Act, and do hereby order that said Code of Fair Competition be and it is hereby approved.

R. G. Tugwell

Acting Secretary of Agriculture

NATIONAL INDUSTRIAL RECOVERY BOARD

By *L. A. Haniman*

Administrative Officer.

Washington, D. C.

Date: December 28, 1934.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

LETTER OF TRANSMITTAL

DECEMBER 28, 1934.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT:

This is a report on the Code of Fair Competition for the Malt Industry, a public hearing thereon having been conducted at Washington, D. C., on May 16, 1934 in accordance with the provisions of Title I of the National Industrial Recovery Act.

By virtue of Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933 and as amended by Executive Orders No. 6345 of October 20, 1933 and No. 6551 of January 8, 1934, which, pursuant to Title I of the National Industrial Recovery Act, delegated to me, as Secretary of Agriculture, certain of the powers vested in the President of the United States by said Act, and after considering said Code and a true, correct and complete stenographic report of all testimony and evidence introduced at said public hearing, and being fully advised in the premises, I make the following findings:

1. That an application has been duly made by the United States Maltsters Association, a trade association representing approximately seventy-five (75) percent by number and volume of the members of the Industry, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, for approval by the President of a Code of Fair Competition for the Malt Industry. The United States Maltsters Association imposes no inequitable restrictions on admission to membership and is truly representative of the Industry.

2. That the Malt Industry, covered by said Code, is included within the trades, industries or subdivisions thereof enumerated in section II of Executive Order No. 6551 of January 8, 1934 (amending Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and as previously amended by Executive Order No. 6345 of October 20, 1933).

3. That said Industry normally employs less than fifty thousand (50,000) employees.

4. That the provisions of said Code establishing standards of fair competition (a) are regulations of transactions in or affecting interstate and/or foreign commerce, and (b) are reasonable.

5. That said Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will not permit monopolies or monopolistic practices.

6. That said Code will not prevent any individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

7. That due notice and opportunity for hearing, in connection with said Code, has been afforded interested parties in accordance with Title I of the National Industrial Recovery Act and the applicable regulations issued thereunder.

8. That said Code will tend to effectuate the declared policy of Title I of the National Industrial Recovery Act as set forth in section I of said Act, in that the terms and provisions of said Code tend: (a) To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agricultural products by increasing purchasing power; and (g) otherwise to rehabilitate industry and to conserve natural resources.

For the reasons hereinbefore given, I have approved said Code.

Respectfully,

R. G. Tugwell

Acting Secretary of Agriculture.

NATIONAL INDUSTRIAL RECOVERY BOARD

LETTER OF TRANSMITTAL

The PRESIDENT,
The White House.

SIR: This is a report on those portions of the Code of Fair Competition for the Malt Industry which, pursuant to the relevant Executive Orders, are subject to the jurisdiction of the National Industrial Recovery Board. A Public Hearing was held in Washington, D. C., on May 16, 1934, in accordance with the provisions of the National Industrial Recovery Act.

HOURS AND WAGES

Labor is placed on a basis of forty (40) hours per week, eight (8) hours per day and six (6) days in each seven (7) day period. Exceptions are granted in the cases of executives, supervisors, technical and administrative employees who regularly receive thirty-five (35) dollars or more per week, and outside salesmen. Junior technical men who are paid not less than twenty-five (25) dollars per week, who do not constitute more than two (2) per cent of the total number of employees, and who shall be limited to one (1) year in this classification, are also granted an exception to the above specified hourly and daily provision.

The maximum hours established shall not apply to those employed in the receiving and shipping departments upon whom the harvesting season places an unusual or temporary burden. This period shall not exceed four (4) months in any calendar year, but in such cases time and one-half ($1\frac{1}{2}$) shall be paid for all hours worked in excess of forty (40) hours in any one (1) week and eight (8) hours in any one (1) day. The Code also provides that time and one-half ($1\frac{1}{2}$) shall be paid for all hours worked in excess of the maximum hours to all employees engaged on emergency or repair work, and that such hours worked in excess of the maxima shall be reported monthly to the Code Authority.

Accounting, clerical and other office employees in this industry shall not be permitted to work in excess of forty (40) hours in any one (1) week or more than eight (8) hours in any one (1) day or more than six (6) days in any seven (7) day period. Chauffeurs and deliverymen are to be governed by the same regulation of forty (40) hours per week and six (6) days in any seven (7) day period, but without daily limitation. Watchmen shall not be permitted to work more than thirteen (13) days in any fourteen (14) day period.

The minimum rate of pay established for clerical, accounting or other office employees is sixteen (16) dollars per week, except that office boys and messengers shall receive not less than fourteen (14)

dollars per week, provided that not more than five (5) per cent of the total number of office employees shall be so classified and compensated. The minimum wages established for other employees is eighteen (18) dollars per week which is based upon the hourly rate of forty-five (45) cents.

There is no geographic wage differential in this Code.

THE INDUSTRY

This industry embraces establishments engaged wholly or principally in the manufacturing of malt for sale, chiefly from barley, but to some extent from other grains. Malt is not a final product. Buyers of malt process it further in the manufacture of beverages, cereal foods, vinegar, alcohol and malt extract. Malt is not a by-product.

Malt is the single product of this industry. There are, however, two (2) by-products in malting processes—malt sprouts and screenings, which are coordinated with the department producing malt so far as manufacturing schedules are concerned.

In 1933 there were twenty-three (23) companies engaged in the manufacturing of malt for sale which produced eighteen million five-hundred seventy-two thousand four-hundred fifty-three (18,572,453) bushels in the fiscal year ending July 31, 1933. The value of the finished product fluctuates in accordance with the market value of the grain used in processing. In 1933 the average bushel value of the finished product was one (1) dollar.

This Code was submitted to this Administration by the United States Maltsters Association of Chicago, Illinois, (the National Association in this industry)—having an approximate membership of eighteen (18) companies engaged in the production of malt for sale.

There were approximately nine-hundred (900) employees engaged by this industry in 1933—of which more than ninety (90) per cent were unionized. Reliable advice indicates that the personnel has been increased since the sale of beer has been legalized. This should also account for an increased production of malt.

The industry is highly competitive but is well organized.

The Deputy Administrator in his final report to the Board on said Code having found as herein set forth and on the basis of all the proceedings in this matter:

The National Industrial Recovery Board finds that:

“(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purposes of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricul-

tural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

"(b) Said Industry normally employs not more than 50,000 employees, and is not classified by the Board as a major industry; and that

"(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is an industrial group truly representative of the aforesaid industry; and that said group imposes no inequitable restrictions on admission to membership therein.

"(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

"(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

"(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code."

Accordingly, the National Industrial Recovery Board has approved the Code of Fair Competition for the Malt Industry to the extent of its jurisdiction, as stated in your Executive Orders of June 26, 1933 and September 27, 1934.

For the National Industrial Recovery Board.

L. A. Hariman

Administrative Officer.

DECEMBER 26, 1934.

CODE OF FAIR COMPETITION FOR THE MALT INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this code is established as a Code of Fair Competition for the Malt Industry, and its provisions shall be the standards of fair competition for such industry, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The terms "President," "Secretary," "Board," and "Act" mean, respectively, the President of the United States, the Secretary of Agriculture or his duly appointed agent, the National Industrial Recovery Board, and Title I of the National Industrial Recovery Act.

SECTION 2. The term "malt industry" as used herein means the manufacture or production of malt for sale.

SECTION 3. The term "member of the industry" includes without limitation, any individual, partnership, association, corporation, or other form of enterprise, engaged in the industry, either as an employer or on his or its own behalf.

SECTION 4. The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

SECTION 5. The term "employer" as used herein includes any one by whom such employee is compensated or employed.

SECTION 6. The term "association" means the United States Maltsters Association.

SECTION 7. The term "malt" means grain that has been artificially germinated by moisture and kiln dried.

SECTION 8. The term "Code Authority" as used herein means the industry authority established under Section 1 of Article VI of this code.

SECTION 9. The term "outside salesman" as used herein means only employees who spend eighty (80) percent or more of their working time in selling outside the establishment and who do not deliver merchandise.

SECTION 10. The term "watchmen" as used herein shall mean employees who spend ninety (90) percent or more of their working time in watching and guarding the premises of the establishment.

ARTICLE III—HOURS

SECTION 1. No employee engaged in manufacturing operations in the plants shall be permitted to work in excess of forty (40) hours

in any one week or eight (8) hours in any one day or six (6) days in any seven (7) day period with the following exceptions:

(a) Executive, supervisory, technical and administrative employees, provided that they receive regularly thirty-five (35) dollars or more per week, and outside salesmen.

(b) Junior technical men who are paid at least twenty-five (25) dollars per week and who do not constitute more than two (2) percent of the total number of employees, but each plant shall be entitled to at least one such employee so classified and compensated. Such employees shall be limited to one year in this classification.

(c) Watchmen, provided, however, that they shall not be permitted to work more than fifty-six (56) hours in any one week, and that such employees shall not be permitted to work more than thirteen (13) days in any fourteen (14) day period.

(d) Chauffeurs and deliverymen, provided, however, that they shall not be permitted to work more than forty (40) hours in any one week nor more than six (6) days in any seven (7) day period.

SECTION 2. The maximum hours established shall not apply to those employees in receiving and shipping departments upon whom the harvesting season places an unusual or temporary burden, for a period not to exceed four (4) months in any calendar year, but in such cases time and one-half shall be paid for all hours worked in excess of forty (40) hours in any one week and eight (8) hours in any day.

SECTION 3. The maximum hours fixed in the foregoing sections shall not apply to employees on emergency or repair work, provided that any such employees working in excess of the maxima as previously specified shall be paid at the rate of time and one-half for such overtime, and such hours worked in excess of the maxima as provided for herein shall be reported monthly to the Code Authority.

SECTION 4. No accounting, clerical or other office employee shall be permitted to work in excess of forty (40) hours in any one week or more than eight (8) hours in any one day or more than six (6) days in any seven (7) day period.

SECTION 5. No employer shall permit any employees to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

ARTICLE IV—WAGES

SECTION 1. No clerical, accounting or other office employee shall be paid at a rate of less than sixteen (16) dollars per week, except that office boys and messengers may be employed at not less than fourteen (14) dollars per week, provided, however, that where more than one employee is compensated at the fourteen (14) dollar rate not more than five (5) percent of the total number of office employees shall be so classified and compensated.

SECTION 2. No employee other than those covered in Section 1, shall be paid at a rate of less than eighteen (18) dollars per week.

SECTION 3. This article establishes minimum rates of pay which shall apply irrespective of whether an employee is actually compensated on a time rate, piece work, or other basis.

SECTION 4. Whenever the adoption of the minimum rates of this code results in lessening the differential between unskilled labor and skilled occupations, wages above the minimum shall be equitably adjusted so as to maintain fair differentials, and provided, however, that a report by the Code Authority be made within sixty (60) days to the Board, setting forth a schedule of rate adjustment. In no case shall full time weekly wages be reduced as a result of the adoption of this Code.

SECTION 5. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SECTION 6. A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this code if the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. It is hereby provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SECTION 2. On and after the effective date of this code, no person under sixteen (16) years of age shall be employed in the industry in any capacity. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall within sixty (60) days after the effective date of this code submit to the Board for approval a list of such operations or occupations.

SECTION 3. No provision in this code shall supersede any State or Federal Law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions or insurance or fire protection, than are imposed by this code.

SECTION 4. Employers shall not reclassify employees or duties of occupations performed by employees, or discharge employees to re-

employ them at lower rates, or engage in any subterfuge so as to defeat the purpose of the Act or of this Code.

SECTION 5. Wages shall be exempt from any charges, and/or deductions except with the written consent of the employee or pursuant to law.

SECTION 6. All employers shall post and keep posted copies of Articles II, III, IV and V of this code in conspicuous places accessible to all employees. Every member of the industry shall comply with all rules and regulations relative to the posting of provisions of Codes of Fair Competition which may from time to time be prescribed by the Board.

SECTION 7. Every employer shall provide for the safety and health of employees during the hours and at the places of their employment. Standards for safety and health shall be submitted by the Code Authority to the Board within six (6) months after the effective date of this code.

ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

SECTION 1. *Code Authority.* (a) A Code Authority to be known as the Code Authority for the Malt Industry shall be established for the purpose of assisting in the administration, supervision and promotion of the provisions of this code. Except as the jurisdiction of the Secretary and the Board may hereafter be changed pursuant to order of the President, the Code Authority shall assist the Board in all matters relating to the administration of provisions of this code relating to hours of labor, rates of pay, and other conditions of employment and shall assist the Secretary in all matters relating to the administration of all the other provisions of this code.

(b) The Code Authority shall consist of seven (7) members and shall be constituted forthwith upon the approval of this code in the following manner:

1. Five (5) members shall be elected by and shall be members of the industry who are members of the United States Maltsters Association.

2. Two (2) members shall be elected by and shall be members of the industry who are not members of the United States Maltsters Association, at a convention, or meeting called for that purpose by the secretary of the Association. All ascertainable members of the industry who are non-members of the association shall be given at least ten (10) days notice, by registered mail or telegram, of the time and place of such convention or meeting, and shall be further notified that voting may be in person, by mail, or by proxy. Of the two (2) members one (1) shall be elected from those members of the industry who are non-members of the Association and who regularly produce over two million (2,000,000) bushels of malt for sale annually. If such two (2) members of the Code Authority are not elected within thirty (30) days after the effective date of this code, the Secretary and the Board by agreement may appoint two (2) such members until two (2) are elected pursuant to this section.

Voting for these two (2) members of the Code Authority shall be on a unit basis.

3. In addition to membership as above provided, the Secretary and the Board may each appoint not more than three (3) members or representatives without vote to serve for such terms as they may specify.

4. The names of the members of the Code Authority, and the fact that such members have been elected pursuant to this Article, shall be certified to the Board by the secretary of the Association.

5. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Secretary and the Board true copies of its Articles of Association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Secretary or the Board may deem necessary to effectuate the purposes of the Act.

6. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Board may prescribe such hearings as it may deem proper; and thereafter if it shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority, or to take such other action as the evidence adduced at the hearing may warrant.

7. Nothing contained in this code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to any one for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to any one for any action or omission to act under this code, except for his own willful malfeasance or non-feasance.

8. If the Secretary of the Board shall determine as to matters subject to their respective jurisdiction that any action of the Code Authority or any agency thereof may be unfair, or unjust, or contrary to the public interest the Secretary or the Board, as the case may be, may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Secretary or the Board approves, or unless he or it shall fail to disapprove after thirty (30) days notice to him or it of intention to proceed with such action in its original or modified form.

SECTION 2. Powers and Duties. In all matters relating to the administration of this code relating to hours of labor, rates of pay and other conditions of employment (except as the jurisdiction of the Secretary and the Board may hereafter be changed pursuant to the order of the President) the Code Authority, subject to such rules

and regulations as may be issued by the Board, shall have the following powers and duties, the exercise of which shall be reported to the Board:

(a) To insure the execution of the provisions of this code and to provide for the compliance of the industry with the provisions of the Act.

(b) To adopt By-laws and rules and regulations for its procedure.

(c) To secure reports from the members of the industry with respect to wages, hours of labor, conditions of employment and other matters pertinent to the administration of this code.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To make recommendations to the Board for the coordination of the administration of this code and such other codes, if any, as may be related to or affect members of the industry.

(f) To recommend to the Board any action or measures deemed advisable to govern members of the industry in their relations with each other or with other industries; measures for industrial planning, and stabilization of employment; and including modifications of this code, which shall become effective as part hereof upon approval by the Board, after such notice and hearing as it may specify.

(g) 1. It being found necessary in order to support the administration of this code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Code Authority is authorized:

(aa) To incur such reasonable obligations as are necessary and proper for the foregoing purposes, and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the code;

(bb) To submit to the Board for its approval, subject to such notice and opportunity to be heard as it may deem necessary, (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the industry.

(cc) After such budget and basis of contribution have been approved by the Board, to determine and obtain equitable contribution as above set forth by all members of the industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

(g) 2. Each member of the industry shall pay his or its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the Board. Only members of the industry complying with the code and contributing to the expenses of its administration as hereinabove provided, unless duly exempted from making such contribution, shall be entitled to participate in the selection of members of the Code Authority or to receive

the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

(g) 3. The Code Authority shall neither incur nor pay any obligation substantially in excess of the amount thereof as estimated in its approved budget, and shall in no event exceed the total amount contained in the approved budget except upon approval of the Board; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Board shall have so approved.

(h) To name such sub-committees or regional committees as may be found necessary for the efficient administration of the provisions of this code.

SECTION 3. In all matters relating to the administration of the provisions of this code, except those relating to hours of labor, rates of pay, and other conditions of employment (except as the jurisdiction of the Secretary and the Board may hereafter be changed pursuant to order of the President) the Code Authority shall have the further powers and duties, the exercise of which shall be reported to the Secretary.

(a) Subject to such rules and regulations as may be issued by the Secretary to insure the execution of the provisions of this code and to provide for the compliance of the industry with the provisions of the Act.

(b) At the request of the Secretary, the Code Authority or a confidential agency selected by it shall obtain from members of the industry such information and reports as may be necessary for the administration of this code by the Code Authority and the performance of its powers and duties hereunder. Such information as may be of a confidential nature shall not be disclosed to members of the industry except as may be directed by the Secretary.

(c) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties and responsibility under this code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof. The Code Authority may, subject to the disapproval of the Secretary, cooperate with such other trade associations or code authorities as it deems proper for the carrying out of any of its activities provided for herein.

(d) To make recommendations to the Secretary for the coordination of the administration of this code with such other codes as may be related to the industry, or affect members of the industry.

(e) To recommend to the Secretary any action or measure deemed advisable, including further fair trade practice provisions to govern members of the industry in their relations to each other or with other industries.

(f) To perform such other duties and exercise such other powers as may be delegated to it by the Secretary.

ARTICLE VII—TRADE PRACTICE PROVISIONS

SECTION 1. *Accounting and Selling.* Each member of the industry shall maintain a system of accounting which shall accurately reflect the true account and condition of his business.

SECTION 2. *Commercial Bribery.* No member of the industry shall, directly or indirectly, give, or permit to be given, or offer to give money, or anything of value, to agents, employees, or representatives of customers or prospective customers or to agents, employees, or representatives of competitors' customers or to prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products of the industry from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting with competitors.

SECTION 3. *Waiving charges and guaranty against decline.* The cancellation, termination, or re-writing of any contract without full compensation for loss resulting from market decline and/or other cause, or otherwise rebating any part of the contract price, is prohibited. The guaranty by any member of the industry against decline from the price specified in any contract for the sale of malt is prohibited.

SECTION 4. *Consignment.* The shipment or delivery of malt to the trade on consignment is prohibited. (Consignment is the shipment or delivery to customer or customer's agent, on which a definite or fixed price has not been made.)

SECTION 5. *Interference with contracts.* No member of the industry shall maliciously induce or attempt to induce the breach of an existing contract between a competitor and his customer and/or source of supply: nor shall any such member interfere with or obstruct the performance of any such contractual duties or services.

SECTION 6. *Defamation of competitors.* The defamation of competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by false disparagement of grade or quality of his goods, is prohibited.

SECTION 7. *Misrepresentation.* The sale or offer for sale of any product of this industry with the intent to deceive customers or prospective customers as to quality or grade of such product is prohibited.

SECTION 8. *Destructive price cutting.* Wilfully destructive price cutting is an unfair method of competition and is forbidden.

SECTION 9. *Emergency Provisions.* (a) If the Secretary after investigation, shall at any time find both (1) that an emergency has arisen within the industry adversely affecting small enterprises, or wages, or labor conditions, or tending toward monopoly, or other acute conditions which tend to defeat the purposes of the Act and (2) that a minimum price for a specified product within the industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority shall cause an impartial agency to investigate costs and to recommend to the Secretary a stated minimum price of the product affected by the emergency and thereupon the Secretary may proceed to determine such minimum price.

(b) When the Secretary shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, he shall publish such price. Thereafter, during such

stated period, no member of the industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend, review or reconsider or the Secretary may cause any determination hereunder to be reviewed or reconsidered and appropriate action taken.

ARTICLE VIII—GENERAL

SECTION 1. *Modification.* This code and all the provisions thereof are expressly made subject to the right of the President of the United States, in accordance with the provisions of sub-section (b) of Section 10 of the Act, from time to time, to cancel or modify any order, approval, license, rule or regulation issued under said Act.

SECTION 2. *Amendment.* This code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such amendments to be based upon application to the Secretary and/or the Board and such notice and hearing as he and/or it shall specify, and to become effective on approval by the President.

SECTION 3. *Reports.* The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Board in the case of information relating to hours of labor, rates of pay, and other conditions of employment) furnish such information to such Federal and State agencies on and in accordance with the forms of reports supplied to them (which reports shall be verified under oath) as the Secretary or the Board may designate and require (1) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest and (2) for the determination by the Secretary or the Board of the extent to which the declared policy of the Act is being effectuated by this code.

No individual reports shall be disclosed to any other member of the industry or any other party except as may be directed by the Secretary or the Board.

Nothing in this code shall relieve any person of existing obligations to furnish reports to government agencies.

SECTION 4. *Monopolies.* No provision of this code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

SECTION 5. *Licenses and marketing agreements.* In the event that any license is hereafter issued or any marketing agreement hereafter executed by the Secretary pursuant to the Agricultural Adjustment Act approved May 12, 1933, as amended, for the Malt Industry or any subdivision thereof, then, to the extent specifically provided in such license or marketing agreement, the provisions of such license and/or marketing agreement may, for the duration thereof, suspend the operation of any provisions of Article VII of this code relating to any one or more of the subject matters referred to in sub-clauses (1) to (7) inclusive of Section I of Executive Order No. 6551 signed by the President on January 8, 1934.

SECTION 6. *Effective date.* This Code shall become effective on the second Monday after its approval by the President.

